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LNV Corporation

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

LNV CORPORATION, a Nevada
corporation,

Plaintiff,

v.

ROBYNNE A. FAULEY, a citizen of the
State of Oregon; and **U.S. BANK
NATIONAL ASSOCIATION**,

Defendants.

Case No. 3:15-cv-01422-HZ

DECLARATION OF GRANT A.
HAMILTON IN SUPPORT OF
PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT

I, Grant A. Hamilton, declare as follows:

1. I am the Vice President of Compliance and Operations of MGC Mortgage, Inc. (“MGC”). MGC is the authorized loan servicer for LNV Corporation (“LNV”), which is the plaintiff in this lawsuit. LNV and MGC are affiliated entities with common ownership. I am authorized by LNV and MGC to make this declaration and have primary responsibility for the administration of the residential loan that is the subject of this judicial foreclosure action.

2. I am fully familiar with the facts and circumstances of this matter based upon my personal experience, knowledge of the history of the loan described herein, and my review of pertinent documents, including the various loan documents that are attached as exhibits hereto.

3. MGC is a business. I am personally familiar with the asset management practices and procedures of MGC with regard to the servicing of mortgage loans, including record keeping as it pertains to custody of notes, mortgages, trust deeds, and other loan documents with respect to mortgage loans held by entities for whom MGC serves as servicer, including for LNV. MGC services mortgage loan accounts in the regular course of its business and makes, in the regular course of its business, records of the acts, transactions, custody of loan documents, events, and occurrences regarding and pertaining to the mortgage loans it services. In addition, MGC, in servicing mortgage loan accounts in the regular course of its business, utilizes records prepared by other agents of the holder of the loan documents, such as the custodian of certain loan documents and prior servicers or holders. Records of such acts, transactions, custody of documents, events, and occurrences are made at the time of the acts, transactions, events, and occurrences or within a reasonably prompt time thereafter.

4. All of the exhibits that are attached hereto are maintained by MGC as business records in accordance with the procedures set forth in the preceding paragraph, in the ordinary course of business, or are operative legal documents setting forth the relationship between LNV as note holder and defendant Robynne A. Fauley (“Defendant”) as borrower. I am also familiar with the allegations contained in the Complaint.

5. I submit this declaration in support of LNV's motion for summary judgment on its judicial foreclosure claim. LNV seeks to foreclose a trust deed on the real property known as Parcel 1, Partition Plat No. 1999-041, in the County of Clackamas and State of Oregon, more commonly known as 12125 Southeast Laughing Water Road, Sandy, Oregon 97055 (the "Property"). Defendant is the grantor of the trust deed and is the borrower on a note that is secured by the trust deed.

A. The Loan to Defendant Fauley

6. On or about June 12, 2002, Washington Mutual Bank, FA ("WaMu") loaned Defendant \$330,000.00 (the "Loan").

7. The Loan is evidenced by the Note in the amount of \$330,000.00, dated June 12, 2002 and signed by Defendant (the "Note"). Attached as Exhibit 1 is a true and correct copy of the Note and the subsequent allonges to the Note. The original lender on the Note is WaMu, and the borrower is Defendant. As additional evidence of the Loan, attached as Exhibit 2 is a true and correct copy of the HUD-I Settlement Statement for the Loan, which Defendant signed.

8. Attached as Exhibit 3 is a true and correct copy of the Deed of Trust ("Trust Deed"). The Trust Deed is dated June 12, 2002 and was signed by Defendant and recorded in Clackamas County, Oregon on June 20, 2002 as Instrument Number 2002-057800. The Trust Deed secures, among other things, Defendant's repayment of the Note. As the trustor of the Trust Deed, Defendant granted and conveyed, in trust, the power of sale of the Property. The Trust Deed provides that WaMu is the beneficiary.

B. Transfer of the Note and Trust Deed to LNV

9. WaMu transferred the Note to Residential Funding Corporation by endorsing the Note to the order of Residential Funding Corporation and delivering the Note to Residential Funding Corporation. (Ex. 1, at 2.) Residential Funding Corporation transferred the Note to Deutsche Bank Trust Company Americas by endorsing it to the order of Deutsche Bank Trust Company Americas and delivering the Note to Deutsche Bank Trust Company Americas. (*Id.*)

Deutsche Bank Trust Company Americas transferred the Note to Residential Funding Company, LLC by endorsing it to the order of Residential Funding Company, LLC in an allonge and delivering the Note and allonge to Residential Funding Company, LLC. (*Id.* at 3.) Residential Funding Company, LLC transferred the Note to LNV by endorsing it to the order of LNV in an allonge and delivering the Note and allonges to LNV. (*Id.* at 4.) Litton Loan Servicing, LP was the loan servicer of the Loan for Residential Funding Company, LLC. LNV is now the note holder, and it has physical possession of the Note.

10. On or about March 10, 2008, Residential Funding Company, LLC assigned its beneficial interest in the Trust Deed to LNV. A true and correct copy of the Corporation Assignment of Deed of Trust executed by Residential Funding Company, LLC (“Trust Assignment”) and the Oregon State Recorder’s cover sheet for the recordation thereof is attached hereto as Exhibit 4. The Trust Assignment was re-recorded in the official records of Clackamas County, Oregon on April 17, 2012 as Instrument Number 2012-023399. (Ex. 4, at 1.) Under the Trust Assignment, LNV is the current beneficiary of the Trust Deed.

C. Defendant’s Default on the Note and Trust Deed

11. Under the Note, Defendant was required to make monthly payments on the first day of each month beginning on August 1, 2002. (Ex. 1, at 1.) The failure to pay the full amount of each monthly payment by the due date constituted a default. (*Id.*) Furthermore, Defendant was obligated to pay when due her debt on the Note under Section 1 of the Trust Deed. (Ex. 3, at 2.) The failure to make full and timely payments on the Note was a breach of the Trust Deed and a default thereon. (*Id.* at 2, 7.)

12. Defendant did not pay the full amount of the monthly payment due on March 1, 2010. Attached as Exhibit 5 is a true and correct copy of the Payoff Statement for the Loan. Defendant’s last payment on the Loan was in August 2012. The Payoff Statement shows that, as of October 30, 2015, the total amount to pay the Loan in full was \$461,960.32 and that the unpaid principal balance was \$297,689.08. (Ex. 5, at 1.)

13. In August 2012, MGC mailed a notice of default regarding the Note and Trust Deed ("Notice of Default") to Defendant. A true and correct copy of the Notice of Default is attached hereto as Exhibit 6.

14. The defaults under the Note and Trust Deed remain uncured to date. As of October 30, 2015, Defendant owed under the Note and Trust Deed the sum of \$461,960.32 as of October 30, 2015, consisting of principal in the amount of \$297,689.08, interest at the rate of 7.125% in the amount of \$121,877.24, escrow/impound overdraft of \$27,291.70, unpaid late charges of \$2,182.70, a recoverable balance of \$7,399.66, a BPO in the amount of \$100.00, taxes in the amount of \$4,835.69, recording/assignment fee of \$106.00, and a property inspection fee of \$478.25. (Ex. 5, at 1.)

D. LNV is exempt from the Oregon Foreclosure Avoidance Program

15. Pursuant to the Oregon Foreclosure Avoidance Program, LNV submitted its Beneficiary Exemption Affidavit ("Beneficiary Exemption"), as evidenced by the true and correct copy of the Beneficiary Exemption attached hereto as Exhibit 7.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 10, 2015.



Grant A. Hamilton
Vice President, Compliance and Operations
MGC Mortgage, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **DECLARATION OF GRANT A. HAMILTON IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT** on the following:

Robynne A. Fauley
12125 Southeast Laughing Water Road
Sandy, OR 97055
email: ihomm@ihomm.org

to be sent by the following indicated method or methods, on the date set forth below:

☒ by **mail** and

☒ by **email**

DATED: November 10, 2015

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